



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/22/0195**

**Re: Property at 61 Charlotte Street, Aberdeen, AB25 1LU (“the Property”)**

**Parties:**

**Mr Dino Avagliano, Via Alessandro Cuzzi 1, 28925, Verbania, Italy (“the Applicant”)**

**Mr Craig Melvin, Miss Karen Quinn Freeman, formerly residing at 61 Charlotte Street, Aberdeen, AB25 1LU and whose whereabouts are presently unknown (“the Respondent”)**

**Tribunal Members:**

**Alastair Houston (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of £671.85 together with interest at the rate of 8% from the date of this decision be made in favour of the Applicant.**

**1. Background**

1.1 This is an application for payment of sums allegedly due to the Applicant following the end of a private residential tenancy between the parties. The Applicant was seeking payment of unpaid rent and the cost of replacement of a Hoover provided under the tenancy agreement. The application was accompanied by copies of the written tenancy agreement between the parties, a rent schedule, inventory and evidence of the cost of replacement of the Hoover.

1.2 Prior to the Case Management Discussion, the Applicant sought to reduce the sum sought to £671.85, comprising of rent arrears only. An amended schedule of the outstanding rent was provided.

## **2. The Case Management Discussion**

- 2.1 The Case Management Discussion took place on 6 May 2022 by way of teleconference. The Applicant was represented by Ms Tighe, solicitor. The Respondents were neither present nor represented.
- 2.2 The Applicant's representative confirmed that the application was insisted upon and that she wished to proceed in the Respondents' absence. The Tribunal noted that service of the application together with notice of the Case Management Discussion had been made validly on the Respondents by way of advertisement. Accordingly, the Tribunal considered it appropriate to proceed in the Respondents' absence as permitted by rule 29 of the Chamber Rules.
- 2.3 The Tribunal noted that an amended rent schedule and, in essence, an application to reduce the sum sought had been lodged with the Tribunal on 4 May 2022. The Respondents would not have been aware of this given the proximity to the Case Management Discussion. The Applicant's representative confirmed that the cost of replacement of the hoover was no longer sought and, following receipt of the sum paid by way of deposit, only £671.85 was now outstanding by way of rent. Judicial interest on that sum at the rate of 8% was also claimed.

## **3. Reasons for Decision**

- 3.1 The tenancy agreement between the parties imposed a liability upon the Respondents to make payment of £450.00 per calendar month by way of rent. The rent schedule lodged by the Applicant demonstrated no payment had been made for the months of February 2021, March 2021 and the portion of April 2021 during which they remained in legal occupation of the property. £450.00 had been received and credited against this debt by the Applicant. Accordingly, in the absence of any contrary position stated by the Respondent, the Tribunal did not consider a hearing was necessary and that the sum of £671.85 was due and owing.
- 3.2 The tenancy agreement between the parties made no provision for interest on any rental debt. Rule 41A of the Chamber Rules permitted the Tribunal to include interest at a rate ordered by the Tribunal. The judicial rate of 8% had been specified in the initial application and at all times since and, accordingly, the Tribunal included interest at this rate.

## **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

# A Houston

25 May 2022

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Legal Member/Chair

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Date